

REMARKS

Claims 1, 5, 7, 9-10, 13-14, 17-18, 20, 22-23, 26, 29, 31-33, 36-38, 41, 43, 45-46, 49-59, 61-62, 65-66, 68-69, 71 and 73-74 are currently pending. Claims 1, 5, 10, 13, 18, 20, 23, 26, 29, 33, 37, 41, 46, 49, 58, 61-62, 65, 71, and 74 have been amended. Claims 2-4, 6, 8, 11-12, 15-16, 19, 21, 24-25, 27-28, 30, 34-35, 39-40, 42, 44, 47-48, 60, 63-64, 67, 70, 72, 75-86 have been canceled. Applicant reserves the right to prosecute the subject matter of the canceled claims in one or more continuation, continuation-in-part, or divisional applications:

All of the pending claims are directed to the embodiments of Figures 14A-F. Claims 1, 13, 26, 37, and 65 have been amended to include the limitation that the loop containing sections, bands or flexible connectors form a plurality of cells, and each cell is formed from one loop of the higher frequency band or section and three loops of the lower frequency band, section or series of connectors. Claim 49 has been amended to indicate that the cells formed by the eight member arrangements are essential to the stent described by Claim 49.

Claims 10, 23, 33, 46 and 74 have been amended wherein a strut of the second loop containing section, circumferential band or series of flexible connectors is shorter than another strut of the same section, band or series. Claim 58 has been amended wherein the third, fourth, fifth, sixth, seventh and eighth members are substantially non-linear. Claim 61 has been amended wherein each of the first and second members are wider than each of the third, further, fifth, sixth, seventh and eighth members.

Claims 5, 18, 29, 41 have been amended to update their new claim dependency. Claims 20, 62, and 71 have been amended to correct obvious grammatical errors.

No new issues of patentability are raised by the instant amendments. Support for these amendments is found in the specification at paras. [0065] – [0072], as well as Figures 17A-17F.

Response to 35 U.S.C. § 121 Restriction Requirement

I. The Examiner's Election Requirement

The Examiner stated that this application contains claims directed to the following:

Species 1: Figure 3.

Species 2: Figure 5

Species 3: Figure 7

Species 4: Figure 11

Species 5: Figure 12

Species 6: Figure 13

Species 7: Figure 17D

Species 8: Figure 17E

The Examiner requested applicants elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner has also requested a listing of claims readable on the selected species. The Examiner has found at least claims 1, 6, 11, 16, 21, 26 and 31 to be generic.

II. Applicants' Provisional Election of Species With Traverse

Applicants respectfully traverse the Examiner's restriction requirement. However, in order to facilitate prosecution and to avoid a holding of non-responsiveness in this application, and in light of the amendments presented herein, applicants propose a category of disclosed species consisting of Figures 17A-17F. Each of these figures illustrate a variation on an embodiment in which the higher frequency loop containing sections or bands are connected at every third loop to the neighboring loop of the lower frequency loop containing section or band, such that the loop containing sections or bands form cells in which there is a 1:3 ratio of lower frequency loops to higher frequency loops.

Because applicant has amended the claims, all currently pending claims, Claims 1, 5, 7, 9-10, 13-14, 17-18, 20, 22-23, 26, 29, 31-33, 36-38, 41, 43, 45-46, 49-59, 61-62, 65-66, 68-69, 71 and 73-74, are readable on Figures 17A-17F, yet restricted in conformance with the Examiner's request.

III. Applicants' Traversal

This election is made with traverse. Applicants respectfully submit that: (1) the instant set of claims is properly presented in one application; (2) undue diverse searching is not required since all the claims are in the same class; and (3) all claims should be examined together. Figures 17A-F represent a class of stents with a common feature of a plurality of cells each having a 1:3 ratio of lower frequency loops to higher frequency loops. This configuration results in the absence of free radially-supporting loops, as seen in the proposed group of Figures 17A-F. Although the different embodiments within that group contain various additional features as

expressed by certain dependent claims, all independent pending claims as amended are based on that single underlying principle of a 1:3 ratio of lower frequency loops to higher frequency loops in a plurality of cells. Therefore, the examination of the pending claims will not require undue searching given this common underlying feature. For the foregoing reasons, it is respectfully submitted that the election requirement is complied with and these Figure 17 claims should be examined together.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of the application, the Examiner is invited to contact the undersigned attorney.


AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-4387, Order No. 92077.003.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-4387, Order No. 92077.003.

Respectfully submitted,
Cadwalader, Wickersham & Taft LLP

Dated: May 7, 2008

By: 
Andrew C. Chien
Registration No. 59,798

Address:
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
(212) 504-6000 Telephone
(212) 504-6666 Facsimile